

REMARKS

The Applicants thank the Examiner for the thorough review and consideration of the pending application. The Office Action dated September 15, 2008 has been received and its contents carefully reviewed.

Information Disclosure Statement

At the outset, the Office Action indicates that the IDS filed May 16, 2008 fails to comply with 37 CFR 1.98(a)(1) because a Notification of First Office Action from the Chinese Patent Office for Application 2004-8003677.3 was submitted but not listed on an IDS. *See Office Action, page 2.* The Applicants note that a listing of the Notification of First Office Action is unnecessary because it was submitted merely as a courtesy to provide an explanation of the relevance of the reference cited on the May 16, 2008 IDS.

Claim Amendments

Claims 1, 3-9, 13 and 14 are hereby amended and claims 15-21 are newly added. No new matter has been introduced. Amendments to claims 4-9, 13 and 14 correct inadvertent typographical errors. Support for the amendments to the remaining claims and newly added claims may be found, for example, in Figures 11 and 16-19 and on page 24, lines 11-22, page 29, lines 7-12, page 32, line 15 - page 33, line 2 and page 39, lines 11-25. Claim 2 is canceled without prejudice or disclaimer. Accordingly, claims 1 and 3-21 are currently

pending. Reexamination and reconsideration of the pending claims are respectfully requested.

Rejection under 35 U.S.C. §112

The Office Action rejects claims 2 and 4 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention, as discussed in the Office Action.

As shown above, the Applicants have canceled claim 2. Thus, the rejection of this claim is considered moot.

With regard to claim 4, this claim has been amended to correct any inadvertent typographical errors.

Accordingly, the Applicants respectfully request that the 35 U.S.C. § 112, second paragraph rejection of claim 4, which now depends from claim 1, be withdrawn.

Rejection under 35 U.S.C. §102

The Office Action rejects claims 1-14 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0082416 (hereinafter "BULLOCK"). The Applicants have cancelled claim 2. Thus, the rejection of this claim is considered moot. The Applicants respectfully traverse the rejection of the remaining claims.

The Applicants respectfully submit that BULLOCK does not teach every element recited in claims 1 and 3-14 and therefore cannot anticipate these claims.

More specifically, claim 1 has been amended to recite a fuel cell which includes, among other features, "wherein said identification part includes a fitting part that is selectively fitted into said fuel cartridge, wherein said identification part mechanically discriminates by said fitting part whether said mounted fuel cartridge is an adequate fuel cartridge.""

Further, claim 12 recites a fuel cell system which includes, "a fuel cartridge having a labeled part showing a filled fuel; and a fuel cell body including an identification part that identifies said labeled part of said fuel cartridge."

See fitting part 1205 shown in Figures 2, 8, and 10 and corresponding connection part 1225. See that these are mechanical and not electrical parts that distinguish the various fuel cartridges from one another.

BULLOCK fails to disclose at least these features.

With regard to claims 1, 3-11, 13 and 14, BULLOCK discloses that only a single type of fuel cartridge can be used with a fuel cell. BULLOCK further discloses that an identification whether a suitable cartridge is fitted to the mounting part is conducted by electrical links 202a and 202b. See page 3, paragraphs [0035]-[0037]. Therefore, BULLOCK cannot possibly be considered to disclose that "said identification part includes a fitting part that is selectively fitted into said fuel cartridge, wherein said identification part mechanically discriminates by said fitting part whether said mounted fuel

cartridge is an adequate fuel cartridge" as recited in claim 1. Therefore, BULLOCK fails to anticipate the claimed invention.

Moreover, BULLOCK fails to disclose anything that could be construed as a structure that mechanically differentiates between a plurality of fuel cartridges used by the fuel cell. Therefore, BULLOCK cannot possibly disclose "an identification part that identifies the mounted fuel cartridge mounted on said mounting part, wherein said identification part is configured to mechanically discriminate a plurality of different fuel cartridges from each other and thereby discriminate whether the mounted fuel cartridge is an adequate fuel cartridge" as recited in newly added claim 21.

With regard to claim 12, the Office Action alleges that BULLOCK discloses "a fuel cartridge having a labeled part showing a filled fuel; and a fuel cell body including an identification part that identifies said labeled part of said fuel cartridge." Figure 9 and paragraph [0044] is relied upon to disclose these features. *See Office Action, page 5.* The Applicants respectfully disagree.

BULLOCK discloses a fuel gauge shown on a display of an electronic device and that the fuel gauge identifies the amount of fuel remaining in the fuel cartridge. *See paragraph [0044], lines 1-5.* However, BULLOCK fails to disclose any label on the cartridge. Since BULLOCK fails to disclose a label, the reference cannot possibly be considered to disclose "an

identification part that identifies said labeled part of said fuel cartridge," as recited in claim 12. Therefore, BULLOCK fails to anticipate the claimed invention.

For at least the aforementioned reasons, the Applicants respectfully submit that claims 1 and 12 are patentably distinguishable over BULLOCK. Likewise, claims 3-11, 13 and 14, which depend from claim 1, are also patentable for at least the same reasons. Accordingly, Applicants respectfully request the 35 U.S.C. §102(b) rejection of claims 1-14 over BULLOCK be withdrawn.

Likewise, newly added claims 15-21 are also patentably distinguishable over the prior art for at least the aforementioned reasons.

Entry of the above amendments is earnestly solicited. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

This response is believed to be fully responsive and to put the case in condition for allowance. An early and favorable action on the merits is earnestly requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Elizabeth M. Keaney/

Elizabeth M. Keaney, Reg. 60,437  
209 Madison Street  
Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

EMK/lk